

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

(Attorney Docket No. 14214US02)

In the Application of:

Martin Lund

Serial No. 10/665,648

Filed: September 19, 2003

For: METHOD AND SYSTEM TO
PROVIDE BLADE SERVER LOAD
BALANCING USING SPARE LINK
BANDWIDTH

Examiner: Man U Phan

Group Art Unit: 2619

Confirmation No. 6075

**Electronically Filed on October 24, 2008
FWW**

REFUND REQUEST

Mail Stop 16
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A petition is hereby filed for a refund of five months extension fee associated with the simultaneous filing of Applicant's Appeal Brief. The Applicant had filed a Pre-Appeal Brief on March 24, 2008, and a response for a panel decision within 45 days was expected. The Appeal Brief is filed with the five month extension fee to avoid abandonment due to delay and inaction from the USPTO. The Examiner was contacted multiple times to request update and action. Despite the Examiner's

suggestion to reopen prosecution, the Applicant received no such written proof from Examiner as of the date of the Appeal Brief due date. Attached is a copy of a facsimile from the Agent for Applicant dated October 22, 2008, and confirmation of your receipt.

For at least the foregoing reasons, the Applicant submits that no extension fee was due, and therefore, a return of \$2,350.00 is approved.

The Commissioner is hereby authorized to credit the McAndrews, Held & Malloy Ltd. Deposit Account No. 13-0017 in the amount of \$2,350.00.

Respectfully submitted,

Date: October 24, 2008

/ Frankie W. Wong /

Registration No. 61,832
Patent Agent for Applicant

MCANDREWS, HELD & MALLOY, LTD.
500 WEST MADISON STREET, 34TH FLOOR
CHICAGO, ILLINOIS 60661
Telephone: (312) 775-8093 (FWW)
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fax
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to:	Examiner Phan and Supervisor Jay Patel		
from:	Frankie W. Wong		
date:	October 22, 2008	user ID: 8093	
client:	01772		
matter:	14214US02		
fax number:	571-273-8300	Serial No.: 10/665,648	
number of pages including cover page:		1	

notes/comments:

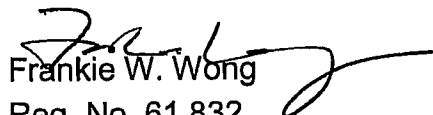
Dear Examiner Phan,

In reference to the status of the Pre-appeal brief filed on 3/24/08, based on our phone conference this morning, you said that you and your supervisor Jay Patel had a meeting yesterday and decided to re-open prosecution to the above application.

Per my phone request, and again in this communication, I need from you a fax copy of Document Code-AP.PRE.DEC (Notice of Panel Decision from Pre-Appeal Brief Review) indicating a checked box at "Reopen Prosecution" as proof by the end of business today. I informed you that I have already started preparing an Appeal Brief in anticipation of filing the Appeal Brief by 10/24/08 with a five month extension due to inaction and delays by USPTO.

If I do not receive your fax copy of the paper today, I intend to proceed filing an Appeal Brief by 10/24/08 to avoid abandonment caused by the USPTO delay and lack of a clear instruction. Please feel free to contact me by fax or by phone if you have any comments or questions. Thank you.

Respectfully submitted,


Frankie W. Wong

Reg. No. 61,832

(Patent Agent for the Applicant)

Confidential Note: The documents accompanying this fax contain information from the law firm of McAndrews, Held & Malloy Ltd., which may be confidential and/or privileged. The information is intended only for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this fax is strictly prohibited, and that the documents should be returned to this Firm immediately. If you have received this fax in error, please notify us by telephone immediately so that we can arrange for the return of the original documents to us at no cost to you.

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to: Examiner Phan and Supervisor Jay Patel

from: Frankie W. Wong

date: October 22, 2008 user ID: 8093

client: 01772

matter: 14214US02

fax number: 571-273-8300 Serial No.: 10/665,648

number of pages including cover page: 1

notes/comments:

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Received
Cover
Page

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FROM: McANDREWS, HELD, & MALLOY

(FED) 10/22/08 12:25:15 PM 48616582:7 F I



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Respectfully submitted,

Frankie W. Wong
Reg. No. 61,832
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